

Title 12: CONSERVATION

Chapter 907: ENFORCEMENT PROCEDURES HEADING: PL 2003, c. 414, Pt. A, §2 (new); Pt. D, §7 (aff); c. 614, §9 (aff)

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Maine Revised Statutes

Title 12: CONSERVATION

Chapter 907: ENFORCEMENT PROCEDURES HEADING: PL 2003, c. 414, Pt. A, §2 (new); Pt. D, §7 (aff); c. 614, §9 (aff)

Subchapter 1: FISH AND WILDLIFE CITATIONS HEADING: PL 2003, C. 414, PT. A, §2 (NEW); PT. D, §7 (AFF); C. 614, §9 (AFF)

§10451. FISH AND WILDLIFE CITATION FORM

1. Form. The commissioner shall designate the Uniform Summons and Complaint as the citation form to be used by the warden service.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2. Responsibility for issuance and disposition. The commissioner is responsible for all fish and wildlife citation forms approved by the Chief Judge of the District Court prior to May 1, 1991. The Department of Public Safety is responsible for all Uniform Summons and Complaints issued to the warden service. The commissioner or the commissioner's designee is responsible for the further issuance of Uniform Summons and Complaint books to individual wardens and for the proper disposition of those books.

A. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §55 (RP).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §55 (RPR) .]

3. Lawful complaint. If the citation provided for in this section or a Uniform Summons and Complaint is duly sworn to as required by law and otherwise legally sufficient in respect to the form of a complaint and charging an offense, it may be filed in a court having jurisdiction and constitutes a lawful complaint for the purpose of the commencement of any criminal prosecution or civil violation proceeding.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

4. Lawful summons. A citation as provided for in this section or a Uniform Summons and Complaint, when served upon a person by a law enforcement officer, acts as a summons to appear in court or to otherwise respond in accordance with law on or before the date specified in the summons.

A. Any person who fails to appear in court as directed by the summons or to otherwise respond in accordance with law on or before the date specified in the summons commits a Class E crime. [2003, c. 655, Pt. B, §55 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. Upon a person's failure to appear or respond in accordance with law, the court may issue a warrant of arrest. It is an affirmative defense to prosecution under this subsection that the failure to appear or respond resulted from just cause. [2003, c. 655, Pt. B, §55 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §55 (RPR) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B55 (AMD). 2003, c. 655, §B422 (AFF).

§10452. REFUSAL TO SIGN

A person may not refuse to sign a citation or Uniform Summons and Complaint after having been ordered to do so by a law enforcement officer. A person who violates this section commits a Class E crime. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §56 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B56 (AMD). 2003, c. 655, §B422 (AFF).

§10453. UNLAWFUL DISPOSITION OF CITATIONS

A warden or other public employee may not dispose of an official citation form or Uniform Summons and Complaint, except in accordance with law and as provided for in any applicable official policy or procedure of the Bureau of Warden Service. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §56 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

A person who violates this section commits a Class E crime. [2003, c. 655, Pt. B, §56 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B56 (AMD). 2003, c. 655, §B422 (AFF).

Subchapter 2: EVIDENCE HEADING: PL 2003, C. 414,
PT. A, §2 (NEW); PT. D, §7 (AFF); C. 614, §9 (AFF)

§10501. ADMISSIBILITY OF DEPARTMENT RECORDS AND PRIMA FACIE EVIDENCE

1. Certificate; admissible evidence. A certificate, signed by the commissioner or the commissioner's designee, stating what the records of the department show on any given matter is admissible in evidence in all courts of this State to prove what the records of the department are on that matter. Upon the testimony of a law enforcement officer that the certificate and records were obtained by that officer from the department, the court shall admit that certificate and those records as evidence without any further foundation or testimony.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2. Certificate prima facie evidence person not holder of license, permit, registration or certificate of number. A certificate, signed by the commissioner or the commissioner's designee, stating that the records of the department do not show that a particular person on a stated date held a license, permit, registration or certificate of number issued under this Part is admissible in evidence in all courts of this State and is prima facie evidence that the particular person named in the certificate did not hold a license, permit, registration or certificate of number as specified in the certificate on the date specified in the certificate.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

3. Certificate prima facie evidence of license, permit, registration or certificate of number revocation. A certificate, signed by the commissioner or the commissioner's designee, stating that the records of the department show that a particular person's license, permit, registration or certificate of number

issued under this Part was revoked or suspended on a particular stated date is admissible in evidence in all courts of this State and is prima facie evidence that the particular person's license, permit, registration or certificate of number as specified in the certificate was revoked or suspended on the date stated.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

4. Use of snowmobile accident reports. Accident reports made by investigating officers are for the purpose of statistical analysis and accident prevention and are not admissible in evidence in any trial, civil or criminal, arising out of an accident, but any investigating agency may disclose, upon the request of any person, the date, time and location of the accident and the names and addresses of drivers, owners, injured persons, witnesses and the investigating officer. The investigating agency may upon written request furnish a photocopy of any report at the expense of the person making the request.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

5. Certificate of number for motorboat. If the operator of a motorboat requiring a certificate of number under section 13056, subsection 2 fails to produce a current certificate of number for the motorboat that person is operating within a reasonable time after demand of a law enforcement officer authorized to enforce the law, it is prima facie evidence that the motorboat is being operated without a current certificate of number.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

6. Failure to produce license. A person's failure to produce a license within a reasonable time when requested by any authorized person is prima facie evidence that the person does not possess that license.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

7. Possession of hunting equipment without license. The possession of any hunting equipment in the fields, forests or on the waters or ice within the territorial limits of the State by any person who does not possess the required hunting license duly issued to that person, covering the period of time within which the hunting equipment is found in that person's possession, is prima facie evidence of hunting in violation of law, unless the person furnishes satisfactory evidence of the issuance of a hunting license.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

8. Possession of fishing tackle without license. The possession of any fishing tackle in the fields, forests or on the waters or ice within the territorial limits of the State by any person who does not possess the required fishing license duly issued to that person, covering the period of time within which the fishing tackle is found in that person's possession, is prima facie evidence of fishing in violation of law, unless the person furnishes satisfactory evidence of the issuance of a fishing license.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

9. Possession of hunting equipment on Sunday. Possession of hunting equipment in the fields or forests or on the waters or ice in the State on Sunday is prima facie evidence of a violation of section 11205, unless:

A. The hunting equipment is carried, securely wrapped, in a complete cover; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. The hunting equipment is fastened in a case; or [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

C. The hunting equipment is carried in at least 2 separate pieces in such a manner that it can not be fired, unless the separate pieces are joined together. For the purpose of this subsection, a clip, magazine or cylinder of a firearm may not be considered a piece of the hunting equipment. Bows and arrows must be kept in a case or cover if broadheads or field points are kept attached to the arrows. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2003, c. 511, §1 (AMD); 2003, c. 511, §3 (AFF); 2003, c. 614, §§9, 10 (AFF) .]

10. Possession of firearm on public paved way.

[2003, c. 511, §3 (AFF); 2003, c. 511, §2 (RP); 2003, c. 614, §§9, 10 (AFF) .]

11. Failure to give notice of snowmobile accident. Failure of a person who is required to give notice of a snowmobile accident under sections 13069-C and 13106-B to give that notice to the available law enforcement officer nearest to the place where the accident occurred is prima facie evidence that the accident was not reported.

[2005, c. 436, §1 (AMD) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 511, §§1,2 (AMD). 2003, c. 511, §3 (AFF). 2003, c. 614, §§9,10 (AFF). 2003, c. 655, §B57 (AMD). 2003, c. 655, §B422 (AFF). 2005, c. 436, §1 (AMD).

§10502. SEIZURE OF FISH, WILDLIFE AND EQUIPMENT

1. Seizure; filing libel. All fish or wildlife hunted, trapped, fished, bought, sold, carried, transported or found in possession of any person in violation of this Part, and all currency used in violation of this Part and equipment, including but not limited to firearms, possessed or used in violation of this Part are contraband and subject to seizure by any officer authorized to enforce this Part. Except for property exempted from libel under subsection 2, an officer making such a seizure shall file, within a reasonable time, with the court a libel against that property. The libel must describe the property seized and the date and place of that seizure, cite the provision of law that is alleged to have been violated and request a decree of forfeiture. The libel proceedings and disposal of property are governed by section 10503.

[2011, c. 253, §4 (AMD) .]

2. Exemption from libel proceedings. The following property may be lawfully seized under this section but is not subject to the libel requirements of this section:

A. Unless reasonable doubt exists as to ownership, property having a value less than \$100; [2009, c. 340, §9 (AMD) .]

B. A firearm or archery equipment, including crossbows, seized in connection with a violation of:

(1) Section 11206;

(2) Section 10902, subsection 6;

(3) Section 10752, subsection 6, paragraph B and section 10902, subsection 4, paragraphs A and B;
or

(4) Section 10906; [2013, c. 538, §1 (AMD) .]

C. Fishing equipment that is seized in connection with a violation of section 10902, subsection 8 except for motor boats or motor vehicles; [2003, c. 592, §1 (AMD); 2003, c. 592, §5 (AFF); 2003, c. 614, §9 (AFF); 2003, c. 655, Pt. C, §§5, 6 (AFF).]

D. Fish or wildlife that is seized in connection with a violation of this Part; and [2003, c. 592, §1 (AMD); 2003, c. 592, §5 (AFF); 2003, c. 614, §9 (AFF); 2003, c. 655, Pt. C, §§5, 6 (AFF).]

E. Night vision equipment seized in connection with a violation of section 11206. [2003, c. 592, §1 (NEW); 2003, c. 592, §5 (AFF); 2003, c. 655, Pt. C, §§5, 6 (AFF).]

Property seized by the commissioner that is exempt from libel under this subsection must be retained by the commissioner pending disposition of proceedings and is forfeited to the State upon conviction or adjudication that the person committed a violation under this subsection.

[2013, c. 538, §1 (AMD) .]

3. Disposal of forfeited property. The commissioner may dispose of property forfeited to the State under this section in any manner considered appropriate by the commissioner.

[2003, c. 592, §1 (NEW); 2003, c. 592, §5 (AFF); 2003, c. 655, Pt. C, §§5, 6 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 592, §1 (AMD). 2003, c. 592, §5 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §§B58,59 (AMD). 2003, c. 655, §§B422,C5,6 (AFF). 2009, c. 340, §§9, 10 (AMD). 2011, c. 253, §4 (AMD). 2013, c. 538, §1 (AMD).

§10503. FORFEITURE OF SEIZED FISH, WILDLIFE AND EQUIPMENT

Whenever a libel has been filed pursuant to section 10502: [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

1. Notice and hearing of libel. The judge shall fix a time for the hearing of the libel and issue a notice of the libel to all persons interested, citing them to appear at the time and place appointed and show cause why the fish, wildlife, currency or equipment possessed should not be declared forfeited. A true and attested copy of the libel and notice must be posted in 2 conspicuous places in the town or place where the fish, wildlife, currency or equipment possessed was seized, or in such place or places as is ordered by the court, at least 10 days before the day on which the libel is returnable. Copies must be served on common carriers;

[2011, c. 253, §5 (AMD) .]

2. Disposal and sale of fish or wildlife. If the court finds that the fish or wildlife seized will be unsuitable for food or other use on the day on which the libel is returnable, the court shall order the officer making the seizure to dispose of the seized fish or wildlife. The officer disposing of the seized fish or wildlife shall, in case of sale, hold the proceeds of the sale subject to order of the court for decision as to the right of the claimant, if any appear, to the fish or wildlife. If the court finds the claimant, if any appear, is not entitled to the fish or wildlife, the officer making the seizure shall turn over to the court the proceeds of the sale, and the court shall forward the proceeds to the commissioner in the same manner as is provided by section 10203;

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

3. Declaration of forfeiture. If no claimant appears, the court shall, on proof of notice, declare the articles forfeited to the State;

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

4. Claim procedures. If a person appears and claims the articles, or any part of the articles, as having a right to the possession of them at the time when they were seized, that claimant shall file with the court a claim in writing stating specifically:

A. The right so claimed; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

B. The foundation of the claim; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

C. The item so claimed; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

D. The time and place of the seizure; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

E. The name of the officer by whom the articles were seized; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

F. That the articles were not possessed in violation of this Part with the person's knowledge or consent; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

G. That person's business and place of residence. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

If a person makes a claim in accordance with this subsection, that claimant must be admitted as a party to the process, and the court shall proceed to determine the truth of the allegations in the claim and libel and may hear any pertinent evidence offered by the libelant or claimant;

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

5. Return of articles or proceeds to claimant. If the court is, upon the hearing, satisfied that the fish, wildlife, currency or equipment possessed was not possessed in violation of this Part and that the claimant is entitled to the custody of any part of the articles, the court shall give the claimant an order in writing, directed to the officer having the articles in custody, commanding delivery to the claimant of the articles or proceeds derived from the sale of the articles, to which the claimant is found to be entitled, within 48 hours after demand;

[2011, c. 253, §6 (AMD) .]

6. Judgment against claimant. If the court finds the claimant entitled to no part of the articles seized, the court shall render judgment against that claimant for the libelant for costs, to be taxed as in civil cases before the court, and issue execution thereon, and declare the articles forfeited to the State;

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

7. Appeal. The claimant may appeal and shall recognize with sureties as on appeals in civil causes from a judge;

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

8. Costs. The costs are:

A. For the libel, 50¢; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

B. For entering the libel, 30¢; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

C. For trying the libel, \$1; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

D. For a notice, 50¢; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

E. For posting notices and return, \$1; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

F. For an order to restore or deliver, 25¢; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

G. For executing the order, 50¢; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

H. Per mile for all necessary travel, 10¢; and [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §60 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §60 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

9. Forms. The department shall provide forms for all cases arising under this section.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B60 (AMD). 2003, c. 655, §B422 (AFF). 2011, c. 253, §§5, 6 (AMD).

§10504. OFFICER'S REPORT

In all cases, the officer making any seizure or sale of fish or wildlife shall, within 10 days after the seizure or sale, report all particulars of the seizure or sale and an itemized statement of the proceeds, expenses and fees and the disposition of the proceeds to the commissioner. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

Subchapter 3: JUDICIAL ACTIONS HEADING: PL 2003, C. 414, PT. A, §2 (NEW); PT. D, §7 (AFF); C. 614, §9 (AFF)

§10551. PROSECUTION BY DISTRICT ATTORNEY

Each district attorney shall prosecute all violations of this Part occurring within the district attorney's district when requested by the commissioner or a game warden or other law enforcement officer authorized to enforce this Part. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §61 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B61 (AMD). 2003, c. 655, §B422 (AFF).

§10552. COMPULSORY TESTIMONY AND WITNESS IMMUNITY

In any prosecution under this Part, any participant in a violation of this Part, when requested by the district attorney, commissioner or other officer instituting the prosecution, may be compelled to testify as a witness against any other person charged with violating this Part, but the evidence given may not be used against the person testifying in any prosecution for such a violation. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §61 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B61 (AMD). 2003, c. 655, §B422 (AFF).

§10553. JURISDICTION

The District Court has concurrent jurisdiction with the Superior Court in all criminal prosecutions under this Part. The District Court has jurisdiction in all civil prosecutions under this Part. Any person arrested or summonsed as a violator of this Part must with reasonable diligence be taken before the District Court in the division nearest to where the offense is alleged to have been committed for prosecution, and in such case jurisdiction is granted to the District Court in adjoining divisions to be exercised in the same manner as if the offense had been committed in that division. [2003, c. 614, §9 (AFF); 2003, c. 688, Pt. F, §2 (AMD); 2003, c. 688, Pt. F, §3 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 688, §F2 (AMD). 2003, c. 688, §F3 (AFF).

§10554. COURT PROCEDURE

The provisions of Titles 14 and 15 relating to court procedure apply in all prosecutions under this Part. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

§10555. FAILURE TO APPEAR

If a person from whom a game warden has accepted personal recognizance and a deposit in accordance with section 10353, subsection 2, paragraph C fails to appear in court on the day specified in the summons, either in person or by counsel, the court shall order the recognizance and deposit forfeited, and the clerk shall immediately notify the commissioner. The default and forfeiture is considered a conviction for purposes of revocation of licenses. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

§10556. CLERKS TO NOTIFY COMMISSIONER

The clerks of the District Court and the clerks of the Superior Court shall notify the commissioner of the conviction of a person of a violation of this Part, the sentence of the court and any appeal taken from the sentence. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

**Subchapter 4: MULTIPLE VIOLATIONS AND SENTENCING
ALTERNATIVES HEADING: PL 2003, C. 414, PT. A, §2 (NEW); PT.
D, §7 (AFF); C. 614, §9 (AFF); C. 655, PT. B, §62 (RPR); §422 (AFF)**

§10601. GENERAL PENALTY STATEMENT

(REPEALED)

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF). 2003, c. 655, §B63 (RP).

§10602. RULE VIOLATIONS; GENERAL

(REPEALED)

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF). 2003, c. 655, §B63 (RP).

§10603. CRIME OF MULTIPLE CIVIL VIOLATIONS

(REPEALED)

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF). 2003, c. 655, §B63 (RP).

§10604. CONVICTION RECORD OF HABITUAL VIOLATOR

A certificate, signed by the commissioner or a person designated by the commissioner, setting forth the conviction record as maintained by the department of any person whose record brings that person within the definition of an habitual violator, as defined in section 10605, subsection 1, is admissible in evidence in all courts of the State for purposes of sentencing. That certificate is prima facie evidence that the person named in the certificate was duly convicted by the court in which that conviction was made of each offense set forth in the certificate. If the person named in the certificate denies any of the facts stated in the certificate, that person has the burden of proof. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §7 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

§10605. SENTENCING ALTERNATIVE; HABITUAL VIOLATOR

1. Habitual violator defined. For purposes of this section, "habitual violator" means a person whose record, as maintained by the department, shows that:

- A. The person has been convicted of 3 or more criminal violations under this Part within the previous 5-year period, except that, whenever more than one criminal violation is committed at the same time, multiple convictions are deemed to be one offense; or [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §64 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

B. The person has been adjudicated as having committed 3 or more civil violations under this Part and convicted of 2 or more Class E crimes as a result of such prior adjudications within the previous 5-year period. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §64 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §64 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

2. Sentencing alternative for habitual violators. When an habitual violator is convicted of a crime in this Part the court shall impose a sentencing alternative involving not less than 3 days imprisonment, none of which may be suspended, and a fine of not less than \$500, none of which may be suspended.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B64 (AMD). 2003, c. 655, §B422 (AFF).

§10606. LICENSE OR PERMIT VIOLATION

(REPEALED)

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF). 2003, c. 655, §B65 (RP).

§10607. RULE VIOLATIONS; OPERATION OF MOTOR VEHICLES ON PUBLIC WATER SUPPLY

(REPEALED)

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF). 2003, c. 655, §B65 (RP).

§10608. JUVENILE VIOLATIONS

Notwithstanding other provisions of law, a person who has not attained 18 years of age and who is convicted of a crime for a violation of this Part that is not defined as a juvenile crime under Title 15, section 3103, subsection 1 may not be sentenced to imprisonment but may be ordered to serve a period of confinement in a Department of Corrections juvenile correctional facility that may not exceed 30 days, which may be suspended in whole or in part, if the court determines that: [2005, c. 507, §3 (AMD).]

1. Crime. The crime is one that, if committed by a person who has attained 18 years of age, would carry a mandatory term of imprisonment that may not be suspended;

[2005, c. 328, §3 (NEW) .]

2. Nature. The aggravated nature and seriousness of the crime warrants a period of confinement; or

[2005, c. 507, §3 (AMD) .]

3. History. The record or previous history of the defendant warrants a period of confinement.

[2005, c. 507, §3 (AMD) .]

The court is not required to impose a period of confinement notwithstanding that there is a mandatory term of imprisonment applicable to a person who has attained 18 years of age. [2005 , c. 507 , §3 (AMD) .]

Any period of confinement must be served concurrently with any other period of confinement previously imposed and not fully discharged or imposed on the same date. Any period of confinement is subject to Title 17-A, section 1253, subsection 2, except that a statement is not required to be furnished and the day-for-day deduction must be determined by the facility, but not to Title 17-A, section 1253, subsection 2, paragraph A, or subsection 3-B, 4, 5, 8, 9 or 10. If the court suspends the period of confinement in whole or in part, the court shall impose a period of administrative release not to exceed one year. The administrative release must be administered pursuant to Title 17-A, chapter 54-G, and revocation of the administrative release is governed by the provisions of that chapter. [2005 , c. 507 , §3 (AMD) .]

SECTION HISTORY

2003 , c. 655 , §B66 (NEW). 2003 , c. 655 , §B422 (AFF). 2005 , c. 328 , §3 (AMD). 2005 , c. 507 , §3 (AMD) .

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